

12/28/99

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application)	<u>PATENT APPLICATION</u>
Inventor(s):	James F. Zucherman)
	Ken Y. Hsu)
	Charles J. Winslow)
	Henry A. Klyce)
SC/Serial No.:	Unknown)
Filed:	Herewith)
Title:	SPINE DISTRACTION IMPLANT)
)



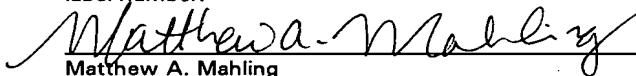
H 2/28/99
docket
J

CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 C.F.R. §1.10

"Express Mail" mailing label number: EL 328 183 559 US

Date of Mailing: December 28, 1999

I hereby certify that this correspondence is being deposited with the United States Postal Service, utilizing the "Express Mail Post Office to Addressee" service addressed to Assistant Commissioner for Patents, Washington, DC 20231 and mailed on the above Date of Mailing with the above "Express Mail" mailing label number.


 Matthew A. Mahling (Signature)
 Signature Date: December 28, 1999

CONTINUATION OR DIVISIONAL APPLICATION TRANSMITTAL LETTER
UNDER 37 C.F.R. §1.53(b)(1)

Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

Transmitted herewith for filing as a X continuation ____ divisional application under the continuing application procedure of 37 C.F.R. §1.53(b)(1) is a patent application identified as follows:

Title: **SPINE DISTRACTION IMPLANT**

Inventor(s): James F. Zucherman
Ken Y. Hsu
T. Wade Fallin
Henry A. Klyce

No. of Pages in Specification: 73, No. of Claims: 40.

No. of Sheets of Drawings: 73; Formal: X or Informal: ____.

Identification of Prior Complete Application

SC/Serial No.: 09/179,570 Art Unit: 3731
Filed: October 27, 1998 Examiner: D. Reip
Title: SPINE DISTRACTION IMPLANT
Inventor(s): James F. Zucherman
Ken Y. Hsu
T. Wade Fallin
Henry A. Klyce

Delete the Following Inventor(s) for This Application: (none)

Declaration

A copy of the Declaration (signed by all inventors) from the Prior Complete Application is submitted herewith.

Amendments

Please CANCEL in this application original claims _____ of the prior complete application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

Please AMEND the specification by inserting before the first line of the application: "This application is a Continuation of Serial No. 09/179,570, filed October 27, 1998, entitled SPINE DISTRACTION IMPLANT."

A preliminary amendment is enclosed. Please enter the preliminary amendment before calculating the application filing fee.

Petition for Extension of Time to Respond

No extension of time is required for the prior complete application.

Pursuant to 37 C.F.R. §1.136(a), enclosed is a petition for an extension of time for the prior complete application, up to and including today, for responding to the Office action together with the fee set by 37 C.F.R. §1.17.

Power of Attorney

A power of attorney appears in the prior complete application.

A new power of attorney is submitted herewith.

Assignment

The prior application is assigned of record to:
St. Francis Medical Technologies, Inc.

An assignment of the invention to: _____ is submitted herewith,
together with an **ASSIGNMENT RECORDATION FORM COVER SHEET**
and recordal fee of \$40.00.

Claim of Priority

Priority of foreign application Serial No. _____, filed on _____,
in _____ is claimed under 35 U.S.C. §1.119.

The certified copy was filed in prior U.S. application Serial No. _____,
filed _____.

Small Entity Statement

Statement(s) claiming small entity status is (are) submitted herewith.

Statement(s) claiming small entity status was filed in the parent
application Serial No. 09/179,570, on January 4, 1999, and its benefit
under 37 C.F.R. §1.28(a) is hereby claimed.

Also Enclosed Are:

Copies of all Information Disclosure Statements under 37 C.F.R. §1.56,
filed in the parent application are submitted herewith.

Substitute drawing sheets for amended Figs. 21, 22, and 37, along with
replacement formal drawing sheets for Figs. 119a-129.

Filing Fee

The continuation/divisional patent application filing fee is calculated as shown below:

No. Filed	No. Extra	Rate Small Entity/ Other Than Small Entity
Basic Fee		\$380.00 \$760.00 = \$ 380.00
Total Claims <u>40</u> ** - 20 =	<u>20</u> * X	\$ 9.00 \$ 18.00 = \$ 180.00
Independent Claims <u>9</u> ** - 3 =	<u>6</u> * X	\$ 39.00 \$ 78.00 = \$ 234.00
First Presentation of Multiple Dependent Claim(s) _____		\$130.00 \$260.00 = \$
Total PATENT APPLICATION FILING FEE:		\$ 794.00

* If the difference is less than zero, enter "0".

** Count claims after any amendment.

Method of Payment of Fees

The total fee associated with this communication is calculated as follows:

Patent application filing fee \$ 794.00
Net fee for extension of time \$
(See attached petition)
Assignment recordal fee \$
(See attached cover sheet) =====
TOTAL FEE DUE: \$ 794.00

A check in the amount of the TOTAL FEE DUE is enclosed.

The Commissioner is hereby authorized to charge underpayment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 06-1325. A **duplicate** copy of this **CONTINUATION OR DIVISIONAL APPLICATION TRANSMITTAL LETTER UNDER 37 C.F.R. §1.53(b)(1)** form is enclosed.

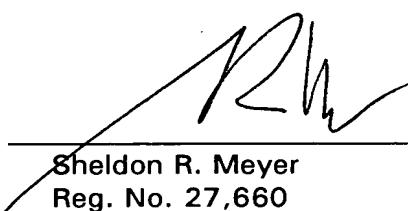
Correspondence Address

All correspondence should be addressed as follows:

Sheldon R. Meyer
FLIESLER, DUBB, MEYER & LOVEJOY LLP
Four Embarcadero Center, Suite 400
San Francisco, California 94111-4156
Telephone (415) 362-3800

Direct all telephone calls to the undersigned attorney at (415) 362-3800.

Respectfully submitted,

By: 
Sheldon R. Meyer
Reg. No. 27,660

Date: December 28, 1999

FLIESLER, DUBB, MEYER & LOVEJOY LLP
Four Embarcadero Center, Suite 400
San Francisco, California 94111-4156
(415) 362-3800